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REMARKS/ARGUMENTS

Claims 11-20 are pending in the application and stand rejected. Claim 11 has been amended to include the phrase "substantially horizontal" prior to the phrase lateral excursions. Claim 11 has also been amended to clarify that the crimped fibers are pre-stressed prior to such fibers being sewn through the backing.

The remarks made herein are consistent with the discussions between the undersigned and Examiner Cheryl Ann Juska in a telephone interview conducted on December 18, 2006.

I. Summary of Examiner's Action

Claims 11, 12, 14, and 17-20 were rejected for nonstatutory double patenting as being unpatentable over claims 9-15 of copending Application No. 10/845,858.

Claim 11 was rejected under 35 U.S.C. § 112 as indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 11, 12, 19 and 20 were rejected under 35 U.S.C. § 102(b) as being anticipated by Wessells (US 3,940,522).

Claims 13 and 15-17 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Wessells (US3,940,522), in view of Prevost (US6,551,689).

Claims 14 and 18 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Wessells (US3,940,522).

II. Terminal Disclaimer

Applicant encloses a Terminal Disclaimer which it believes to be in compliance with 37 C.F.R. 1.321(c) and which should overcome the provisional rejection based on such non-statutory double patenting.

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The Director is hereby authorized to charge the fees for such terminal disclaimer under 37 CFR §1.20(d), any underpayment of fees, or credit any overpayments, to Deposit Account No. 502413 in the name of "Adams and Reese LLP".

III. Rejections based on 35 U.S.C. § 112, second paragraph

Claim 11 was rejected under 35 U.S.C. § 112, second paragraph, as indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The Examiner pointed out that the phrase "fibers pre-stressed so as to have a non-linear shape with lateral excursions when not under tension" appears to be indefinite because the meaning of "lateral excursions" is unclear. The Examiner further stated that the claims are interpreted as being limited to a "curlicued" form.

Applicant respectfully disagrees. Page 2, lines 21-24 in the specification as filed states that "The other kind of fiber in each group is pre stressed/crimped so that the relaxed shape of the fiber is nonlinear, resembling a curlicued or articulated form having lateral excursions. The lateral excursions cause portions of one such pre-stressed fiber to overlap and interfere with another, forming a mesh." In addition, page 3, line 28 refers to "the lateral/horizontal excursions." To one skilled in the relevant art, it would be understood that the term "lateral excursions" means that the fibers are not vertical. Rather they deviate from a central, vertical axis and extend in a substantially horizontal fashion. The specification does not limit the lateral/horizontal excursions to a curlicued form — that is, the excursions are not limited to one embodiment. The fibers may, for example, also be stressed or crimped to form an S-shape, a helical or spiral shape, a kink, or a zigzag, just to name a few possible shapes.

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For these reasons, it is respectfully urged that the term "lateral excursions" is sufficiently clear, and that the rejection under 35 U.S.C. § 112, second paragraph, may be withdrawn.

IV. Rejections Based on 35 U.S.C. § 102(b)

Claims 11, 12, 19 and 20 were rejected under 35 U.S.C. § 102(b) as being anticipated by Wessells (US 3,940,522).

Claims 11, 12, 19, and 20 teach an artificial turf with grass-like and pre-stressed fibers tufted through a common opening. The pre-stressed fibers have a horizontal component (referred to in claim 11 as "lateral excursions") that results in overlap and in the formation of a mesh-like structure after tufting. In contrast, Wessells ('522) teaches an artificial turf with pre-stressed or crimped fibers that are not substantially horizontal, but rather are vertical.

In fact, the specification of Wessells teaches away from horizontal fibers. After crimping, the fibers press sideways to meet fibers from adjacent tufts to "support adjacent tufts perpendicular to the backing." (col. 2, ll. 65-68 through col. 3, ll. 1-3). The crimped fibers do not "nest together" and instead push apart to form a dense mass and to give support to the grass-like fibers. (col. 5, ll. 36-40). Wessells teaches that the crimped fibers should not "draw down tightly." (col. 5, ll. 44-51). In this section, Wessells further explains that it is preferable for the crimped fibers to remain in "somewhat extended condition" to resist a compressive load that is applied *axially* to the direction of the fibers, i.e., in the vertical direction of the length of the fibers. Wessells also adds that "since compressive resilience is desired, *filaments whose cross-section has not been deformed severely by the crimping operation are particularly useful.*" [Emphasis added]. Thus, Wessells teaches a vertical orientation for the crimped fibers, which form a virtual column around the grass-like fibers. Accordingly, Figure 4 of Wessells depicts substantially vertical crimped fibers surrounding the grass-like fibers.

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In contrast, Applicant's invention discloses crimped fibers that do not remain substantially vertical. The crimped fibers of Applicant's invention can have severely deformed cross-sections and can be tightly drawn down so as to form lateral excursions extending in a predominantly horizontal direction. Consequently, claim 11, as amended, and claims 12, 19 and 20 are novel and nonobvious in comparison to the Wessells reference, and it is respectfully requested that the rejection be withdrawn.

V. Rejections Based on 35 U.S.C. § 103(a)

A. Wessells in view of Prevost

Claims 13 and 15-17 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Wessells (US 3,940,522), in view of Prevost (US 6,551,689).

The combination of Wessells in view of Prevost is not sufficient to support a prima facie rejection based on obviousness. Wessells and Prevost both relate to artificial turf products. Otherwise, they are substantially different from one another. For the reasons given above, claim 11, as amended, is novel and nonobvious in comparison to Wessells. Claims 15-17 are dependent from claim 11 and include limitations further distinguishing the invention from the cited combination. Therefore, claims 15-17 are also nonobvious in comparison to the combination of Wessells in view of Prevost.

If the requirement of Wessells—that both the crimped and grass-like fibers are in a vertical orientation—were modified by the disclosure of Prevost, such an attempt would not result in a turf product resembling Applicant's. This is because the combination of Wessells with Prevost still only suggests fibers that extend upward from the backing in a vertical direction. Neither Wessells nor Prevost discloses fibers that extend upward from the backing in a substantially horizontal direction, i.e., the lateral excursions. Thus, it would not have been

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obvious to one skilled in the art of artificial turf to utilize crimped fibers that extend laterally. Consequently, the proposed combination of Wessells and Prevost does not disclose or suggest the invention as claimed in claims 11, as amended, and 15-17.

B. Wessells

Claims 14 and 18 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Wessells (US 3,940,522).

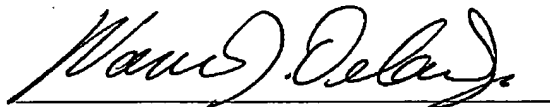
Claims 14 and 18 are ultimately dependent upon claim 11. Both claims 14 and 18 should be allowable for the reasons expressed earlier in this response with respect to their novelty over the Wessells reference and are nonobvious over the cited combination.

VI. Conclusion

For the reasons expressed herein, the applicant respectfully requests that a Notice of Allowance be issued in this case. If the Office believes that there remain any impediments to such a Notice of Allowance, the undersigned would welcome a telephone call to resolve such issues as quickly as possible.

Respectfully submitted:

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